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| EXAMINER | | | | |
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte SCOTT J. BROUSSARD

Appeal 2010-012014
Application 09/870,614
Technology Center 2100

Before: JOSEPH L. DIXON, LANCE LEONARD BARRY, and
JAMES R. HUGHES, *Administrative Patent Judges*.

DIXON, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellant appeals under 35 U.S.C. § 134 from a rejection of claims 1-22. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

The invention relates to computer software, and more particularly to software for a graphical user interface that can enable or disable buffering of images sent to a computer display. The software is preferably contained within a component applicable to Java Swing programming and which contains one or more lines of code that can be used to enable or disable sending objects (frame, panel and buttons) in succession or as a compiled layout to the display. (Spec. 1). Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A display system, comprising:
a display;
a display buffer coupled to the display; and
a processor adapted to execute an application program
which, when executed, produces images upon the display,
wherein during a first mode the images are forwarded in
sequence to the display, and wherein during a second mode the
images are compiled as a combination image of at least one of
said images drawn over at least another of said images and
presented to the buffer before being forwarded to the display.

REFERENCES

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

| | | |
|----------|-----------------|---------------|
| DiNicola | US 4,951,229 | Aug. 21, 1990 |
| Ross | US 5,838,336 | Nov. 17, 1998 |
| Nagata | US 6,522,341 B1 | Feb. 18, 2003 |

REJECTIONS

Claims 1, 2, 5, 6, 20, and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DiNicola, Ross, and Nagata. Ans. 4.

Claims 3, 4, and 7-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DiNicola, Ross, Nagata, and Fowler. Ans. 10.

Claims 11-13, 18, 19, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DiNicola, Sun, Ross, and Nagata. Ans. 14.

Claims 14-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DiNicola, Ross, Nagata, Fowler, and Sun. Ans. 20.

ISSUES

Has the Examiner set forth a sufficient showing of obviousness of independent claim 1 over the combination of DiNicola, Ross and Nagata?

PRINCIPLES OF LAW

35 U.S.C. § 103

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. *See In re Fine*, 837 F.2d 1071, 1073 (Fed. Cir. 1988). In so doing, the Examiner must make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966). “[T]he Examiner bears the initial burden, on review of the prior art or on any other ground, of presenting a *prima facie* case of unpatentability.” *In re Oetiker*, 977 F.2d

1443, 1445 (Fed. Cir. 1992). Furthermore, “‘there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness’ . . . [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007)(quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

The question of obviousness is “based on underlying factual determinations including . . . what th[e] prior art teaches explicitly and inherently” *In re Zurko*, 258 F.3d 1379, 1383 (Fed. Cir. 2001).

ANALYSIS

We find the Examiner's showing of obviousness to be reasonable and we adopt the Examiner's findings from pages 4-23 of the Answer in the statement of the grounds of rejection and the Examiner's responses to Appellant's arguments at pages 23-30 of the Answer as our own. The Examiner has relied upon the additional teachings of Ross and Nagata to remedy those deficiencies, identified by the Board in the prior decision, mailed a March 31, 2008, in both the rejections under 35 U.S.C. §§102 and 103. Therefore, we will sustain the rejection of independent claims 1 and 5.

With respect to dependent claims 2, 6, 20, and 21, Appellant relies upon the arguments advanced with respect to independent claims 1 and 5 which we did not find persuasive of error in the Examiner's showing of obviousness. Therefore, we will sustain the rejection of those claims. (App. Br. 19).

Similarly with respect to dependent claims 3, 4, and 7-10, Appellant relies upon this the arguments advanced with respect to claims 1 and 5 and that the teachings of Fowler do not remedy those deficiencies. (App. Br. 20). Since we did not find Appellant's arguments persuasive with respect to independent claim 1 and 5, we similarly do not find Appellant's arguments persuasive with respect to claims 3, 4, and 7-10.

With respect to independent claims 12 and 19, Appellant relies upon the arguments advanced with respect to independent claims 1 and 5 and argues that Sun does not disclose any of the elements lacking in the base combination. Since we did not find Appellant's arguments persuasive with respect to independent claim 1 and 5, we similarly do not find Appellant's arguments persuasive with respect to independent claim 12. (App. Br. 21-22). Therefore, we will sustain the rejection of representative claim 12 and claim 19 grouped there with. Appellant advances similar arguments with respect to dependent claims 11, 13, 18, and 22. (App. Br. 21-22). Since we did not find Appellant's arguments persuasive with respect to independent claim 1 and 5, we similarly do not find Appellant's arguments persuasive with respect to dependent claims 11, 13, 18, and 22.

With respect to dependent claims 14-17, Appellant relies upon the arguments advanced with respect to independent claims 1 and 5 and argues that Sun and Fowler do not disclose any of the elements lacking in the base combination. (App. Br. 23). Since we did not find Appellant's arguments persuasive with respect to independent claim 1 and 5, we similarly do not find Appellant's arguments persuasive with respect to dependent claims 14-17.

CONCLUSIONS OF LAW

The Examiner did not err in rejecting claims 1-22 under 35 U.S.C. § 103.

DECISION

For the above reasons, the Examiner's rejection of claims 1-22 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED

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